

KENT ASSOCIATION OF LOCAL COUNCILS



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Data sharing code consultation
Parliament & Government Affairs
Information Commissioner's Office
Wycliffe House
Water Lane
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SCANNING
16 SEP 2019

9 September 2019

Dear Sir

Data Sharing Code of Practice

The Kent Association of Local Councils (KALC) represents just over 96% of Parish and Town Councils and Parish Meetings in Kent, representing an electorate of over 730,000 across the range of suburban, rural and urban Kent.

We welcome the opportunity to respond to the ICO's Data Sharing Code of Practice consultation. We support our National Association of Local Councils (NALC) response. Our key points are set out below:

- ICO need to continue to work closely with NALC and the wider local council sector over the next three years to ensure that Freedom of Information (FoI) guidance and regulations are fit for purpose, as well as data sharing guidance;
- There are still too many vexatious FoI requests being made to England's local councils who are not resourced to deal with them;
- NALC and KALC agrees in principle with transparency but ICO needs to be aware that FoI for instance pushes the capacity envelope for local councils in terms of their ability to respond to requests which are not deemed "reasonable"; &
- We very much hope that ICO will work closely with bodies such as NALC, and issue simple and concise guidance to bodies such as local councils that do not routinely or frequently share personal data.

Specific responses to the three main questions which have most relevance to local councils are as below:

Question 1. Does the updated code adequately explain and advise on the new aspects of data protection legislation which are relevant to data sharing?

Yes, on balance. We believe the document lays out a sensible and clear approach to any data sharing issues which all size of local (parish and town) council might encounter. These should prove helpful as a starting point were any issues to arise that needed to be verified by local councils with KALC, NALC or the ICO in the future.

Question 3. Does the draft code cover the right issues about data sharing?

Yes, on balance. But ICO need to be clear as to whether and how they would define local councillors under this code – i.e. as employees or not. For instance, should a complaint about a local council or about the way in which an officer responds to a query from a member of the public which is going to be considered at a meeting of the full council be redacted to remove personal details or not.

NALC and KALC's view is that there is absolutely no way that local councillors can be defined as 'employees' - with the exception of those instances where local councillors also perform as officers of the Council, e.g. as the data protection officers, and get paid for their services (as opposed to simply being paid expenses).

Question 11. Does the draft code strike the right balance between recognising the benefits of sharing data and the need to protect it?

Yes, on balance. Large parts of the code appear to be written for larger organisations who have specialist resource available to manage FOI, data protection and data sharing issues. Most local councils are smaller and do not have the luxury of such resource. It would be helpful to have guidance on prioritisation of the many requirements covered and on measures proportionate for the local council sector.

The vast majority of Parish Councils only have one paid officer and, more often than not, these people are part time and are expected to serve many functions. Often there is no understanding outside of a smaller local council how idiosyncratic their operations are. Invariably, there is no specialist knowledge and no spare capacity and even a lack of basic knowledge about the existence of such a code as this. NALC and KALC are happy to work with ICO to raise awareness of this draft code.

We hope you find these comments helpful.

